

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
DELTA DIVISION**

**FIRST PERFORMANCE, LLC, ET AL.**

**PLAINTIFF**

**v.**

**CIVIL No. 2:11-CV-39-JMV**

**DESOTO COUNTY**

**DEFENDANTS**

**ORDER**

This matter is before the court on the motion of Defendants, the Mississippi Department of Public Safety (“DPS”), Albert Santa Cruz (“Santa Cruz”) in his official capacity as Commissioner of DPS, the Mississippi Bureau of Narcotics (“MBN”), and Marshall Fisher (“Fisher”) in his official capacity as Director of the MBN, to dismiss this 42 U.S.C. § 1983 complaint for failure to state a cause of action under Fed. R. Civ. Pro. 12(b)(6). [Docket #5] Specifically, these Defendants assert that Plaintiff’s complaint is barred by immunity pursuant to the Eleventh Amendment to the United States Constitution and because these defendants are not “persons” amenable to suit under § 1983.

For the reasons and based on the authority plainly set forth in the memorandum in support of the motion and in the reply brief, the court finds this motion to be well-taken.

IT IS, THEREFORE, ORDERED, that the motion to dismiss (Docket #5) is hereby GRANTED. Defendants, the Mississippi Department of Public Safety, the Mississippi Bureau of Narcotics, Marshal Fisher, in his official capacity, and Albert Santa Cruz, in his official capacity, are hereby dismissed with prejudice.

SO ORDERED, this, the 9th day of August, 2013.

/s/Jane M. Virden  
United States Magistrate Judge